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T-065 P.010/016 F-697

Serial No. 10/665,251
Amendment and Response to Office Action of April 10, 2006

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REMARKS

Responsive to the Office Action mailed April 10, 2006, the Examiner's rejections and comments have been carefully reviewed and studied. Further, the present application and pending claims have again been reviewed.

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35 U.S.C. Section 112 Rejections

Claims 42-45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

The Examiner states that there is no antecedent basis for "the flexible hose length portion" in claim 42. Applicants have amended the language to "said flexible hose."

The Examiner states that claim 42 is indefinite since it is unclear whether applicants are positively claiming the hose in combination with the covering and device. Applicants have amended pending claims 12-15 and 36-42 to positively claim an assembly comprising the hose in combination with the other elements.

The Examiner states that there is no antecedent basis for "the length of the flexible gasoline hose" in claim 43. Applicants have amended the claim to traverse the rejection.

The Examiner states that there is no antecedent basis for "the flexible hose length portion" in claim 45. Applicants have amended claims 43 and 45 to traverse the rejection.

The Examiner states that claims 43 and 45 are indefinite since it is unclear whether applicants are positively claiming the hose in combination with the device. Applicants have amended the claims and submit that the hose is not positively claimed.

Applicants respectfully submit that all Section 112 rejections have been traversed.

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35 U.S.C. Section 102 Rejections

Claims 12, 14, 15, 36, 37, 39 and 41-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Fuller et al. (USP 5,605,414).

Claims 12, 14, 15, 36, 37, 39, 41 and 42 have been amended to positively recite a "flexible hose." Fuller et al. discloses an apparatus for protecting a hard, rigid, immovable barrier and does not teach or suggest placing his barrier protector on a flexible hose.

Furthermore, claim 12 requires a cylindrical foam member placed on the flexible hose. Fuller et al does not teach or suggest a cylindrical foam member. Fuller et al. discloses a resilient membrane 11 "wrapped around" the barrier 10 requiring fastener means 30 to be applied at predetermined intervals along the closing seam 20 to hold the resilient membrane 11 around the barrier 10 as shown in Fig. 3. See Fuller et al., 2:56-67; and 3:44-48. "Fastener means 30 may advantageously be a friction contact fastener, as illustrated, or alternatively self-adhesive tape, a string or an elasticated ring as illustrated by box 30 in Fig. 3A." Fuller et al., 2:64-67. Clearly, the resilient membrane 11 is not a cylindrical member as it requires fasteners at predetermined intervals to hold it around the barrier. Thus, Fuller et al. does not teach or suggest a cylindrical foam member, nor a cylindrical foam member placed on a flexible hose.

Claim 14 includes the feature of the cylindrical foam member having a slit for placing the cylindrical foam member on the flexible hose. As discussed above, it is clear that the resilient membrane in Fuller et al. is initially flat and rectangular prior to being wrapped around and secured to the barrier with fasteners at spaced intervals -- thus, the resilient membrane has no slit. Furthermore, the closing seam 20 in Fuller et al. does not constitute a slit in a cylindrical member nor a slit for placing the cylindrical member on a flexible hose.

Claim 36 is for a hose advertisement assembly for a gasoline pump and in addition to requiring a flexible hose, also includes (1) an elongated cylindrical member made of flexible foam material having an elongated hollow core extending therethrough receiving the flexible hose; and (2) wherein the combination of the flexible covering, elongated cylindrical member and received flexible hose is flexible.

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Fuller et al does not teach or suggest a cylindrical member having a hollow core extending therethrough to receive a flexible hose. As discussed above, Fuller et al. teaches a resilient membrane 11 that is wrapped around a barrier 10 forming a closing seam 20. Fastener means 30 have to be applied along the closing seam 20 to hold the resilient membrane 11 around the barrier 10. Thus, Fuller et al. fails to teach or suggest (1) a flexible hose; (2) an elongated cylindrical member having an elongated hollow core extending therethrough receiving a flexible hose; and (3) the combination of a flexible covering, the elongated cylindrical member and the received flexible hose being flexible.

Claim 37 includes the feature of the elongated cylindrical member having an elongated slit extending from a first end to a second end of the elongated cylindrical member. As discussed above, Fuller et al. does not teach or suggest such a feature.

Applicants respectfully submit that amended claims 12, 14, 15, 36, 37, 39 and 41-45 are allowable over the cited prior art.

Claims 36, 37 and 43-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Clement (USP 4,844,000).

Claim 36 includes the features of an elongated cylindrical member made of flexible foam material. Clements does not teach or suggest either an elongated cylindrical member or a member made of flexible foam material.

Claim 37 includes the feature of an elongated slit in the elongated cylindrical member. Clements clearly does not teach or suggest an elongated slit in an elongated cylindrical member.

Claim 43 includes the feature of a device including an elongated flexible, padded covering including a display portion for advertising. Claim 44 includes a securing element for securing the elongated flexible, padded covering to the length of flexible gasoline hose. Claim 45 includes the feature the elongated flexible, padded covering being releasably secured to the length of flexible gasoline hose.

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Applicants submit that Clement does not teach or suggest an elongated flexible, padded covering including a display portion for advertising, nor a securing element for securing an elongated flexible, padded covering to the length of flexible gasoline hose.

Applicants respectfully submit that amended claims 36, 37 and 43-45 are allowable over the cited prior art.

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35 U.S.C. Section 103 Rejections

Claims 13 and 38 are rejected under 35 U.S.C. 103(a) as being obvious over Fuller et al. Applicants submit that claims 13 and 38 depend from allowable claims 12 and 36, respectively, and are thus also allowable.

Claim 40 is rejected under 35 U.S.C. 103(a) as being obvious over Fuller et al. in view of Ruiz (USP 6,079,135). Applicants submit that claim 40 depends from allowable claim 36, and is thus also allowable.

Claim 38 is rejected under 35 U.S.C. 103(a) as being obvious over Clement. Applicants submit that claim 38 depends from allowable claim 36, and is thus also allowable.

Claim 40 is rejected under 35 U.S.C. 103(a) as being obvious over Clement in view of Ruiz. Applicants submit that claim 40 depends from allowable claim 36, and is thus also allowable.

Applicants respectfully submit that claims 13, 38 and 40 are allowable over the cited references.

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CONCLUSION

Applicants respectfully submit that all issues and rejections have been adequately addressed, that all pending claims are allowable, and that the case should be advanced to issuance.

If the Examiner has any questions or wishes to discuss the claims, Applicants encourage the Examiner to call the undersigned at the telephone number indicated below.

Respectfully submitted,



Douglas W. Rommelmann, Reg. No. 34,418

Date: 10/10/06

ANDREW'S KURTH LLP
600 Travis, Ste. 4200
Houston, Texas 77002
Telephone: (713) 220-4697
Facsimile: (713) 238-7187